

1 MAYER BROWN LLP  
LEE H. RUBIN (SBN 141331)  
lrubin@mayerbrown.com  
2 EDWARD D. JOHNSON (SBN 189475)  
wjohanson@mayerbrown.com  
3 DONALD M. FALK (SBN 150256)  
dfalk@mayerbrown.com  
4 ERIC B. EVANS (SBN 232476)  
eevans@mayerbrown.com  
5 ANNE M. SELIN (SBN 270634)  
aselin@mayerbrown.com  
6 Two Palo Alto Square, Suite 300  
3000 El Camino Real  
7 Palo Alto, CA 94306-2112  
Telephone: (650) 331-2000  
8 Facsimile: (650) 331-2061

9 *Attorneys for Defendant*  
10 *Google Inc.*

11  
12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN JOSE DIVISION**

15 IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION

16 THIS DOCUMENT RELATES TO:  
17 ALL ACTIONS

**Master Docket No. 11-CV-2509-LHK**

**DECLARATION OF ERIC B. EVANS IN  
SUPPORT OF DEFENDANTS' JOINT  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL**

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19  
20  
21 I, Eric B. Evans, declare as follows:

22  
23 1. I am a partner with the law firm of Mayer Brown LLP, counsel for Defendant  
24 Google, Inc. ("Google") in the above-captioned matter. I am admitted to practice law before this  
25 Court. I submit this declaration in support of Defendants' Joint Administrative Motion To File  
26 Under Seal. As an attorney involved in the defense of this action, unless otherwise stated, I have  
27 personal knowledge of the facts stated in this declaration and if called as a witness, I could and  
28 would competently testify to them.

1           2.       I have read and reviewed the Declarations of Frank Wagner (Google's Director of  
2 Compensation) that were filed on October 9, 2012, November 12, 2012 and December 18, 2012  
3 (Dkts. 201, 221 and 261, respectively) in this matter. In those Declarations, Mr. Wagner  
4 describes the competitive harm that Google would suffer if certain confidential and highly  
5 sensitive details about Google's compensation, recruiting, and hiring strategies and practices,  
6 including confidential details about Google's internal deliberations and business strategy related  
7 to how Google sets compensation for its employees, as well as how Google might respond to  
8 competition for its employees from other employers.

9           3.       Google has reviewed (a) Defendant Google Inc.'s Reply in Support of Its Motion  
10 for Summary Judgment and the attached exhibits, filed on February 27, 2014 and (b)  
11 Defendants' Reply In Support Of Joint Motion To Exclude The Expert Testimony Of Edward E.  
12 Leamer, Ph.D and attached exhibits.

13           4.       Google has identified and made specific and narrowly tailored redactions—which  
14 are detailed in paragraphs 5 and 6, below—to particular portions of its Reply In Support Of Its  
15 Motion for Summary Judgment with attached exhibits and Defendants' Reply In Support Of  
16 Joint Motion To Exclude The Expert Testimony Of Edward E. Leamer, Ph.D with attached  
17 exhibits that contain confidential and highly sensitive details about Google's recruiting and  
18 hiring strategies and practices and that reflect Google's internal deliberations and business  
19 strategy related to how Google approaches recruiting and hiring, and personal identifying  
20 information of individuals recruited by Google.

21           5.       In particular, Google requests to seal the following portions of an exhibit attached  
22 to its Reply in Support of Its Motion for Summary Judgment:

23                   **a) Excerpts from the deposition of Eric Schmidt taken on February 20, 2013:**

24                   i)   Page 165:2 (only the name of an employee recruited by Google)

25           6.       In particular, Google also requests to seal portions of the following exhibits  
26 attached to Defendants' Reply In Support Of Joint Motion To Exclude The Expert Testimony Of  
27 Edward E. Leamer, Ph.D:  
28

1 a) **Expert Report of Professor Kevin Murphy dated November 12, 2012.** The  
 2 following portions of Professor Murphy’s report contain highly confidential and  
 3 highly sensitive information related to Google’s recruiting and compensation  
 4 practices and data. It is also my understanding that the Court previously granted  
 5 Google’s request to seal the below portion of this report in the Court’s Order  
 6 Granting in Part and Denying in Part Motions to Seal (Dkt. 509):

- 7 i) Page 13, footnote 20 (last clause of last sentence only, listing employers)
- 8 ii) Page 14, Paragraph 20 (third sentence relating to Google’s use of third-  
 9 party market data)
- 10 iii) Page 14, footnote 24 (last parenthetical only)
- 11 iv) Page 21, Paragraph 35 (figures in last sentence only)
- 12 v) Page 25, Paragraph 43 (last two sentences only)
- 13 vi) Page 26, Paragraph 45 (portion of third sentence only)
- 14 vii) Pages 26-27, Paragraph 46 (fourth sentence only)
- 15 viii) Pages 42-43, Paragraph 78 (last three sentences only)
- 16 ix) Page 45, footnote 107
- 17 x) Page 47, footnote 114 (first sentence only)
- 18 xi) Page 54, Paragraph 95 (percentage figures in last sentence only)
- 19 xii) Page 78, Paragraph 146 (percentage figure and description before the term  
 20 “rate” in last sentence)
- 21 xiii) Exhibits 3, 5, 6, 7A, 7B, 8A, 8B, 9B, 10, 11B, 15B
- 22 xiv) Appendices 1A, 1B, 1C, and 1D

23 7. Based on the previous declarations submitted by Frank Wagner, the information  
 24 in portions of the Defendant Google Inc.’s Reply in Support of Its Motion for Summary  
 25 Judgment with attached exhibits and Defendants’ Reply In Support Of Joint Motion To Exclude  
 26 The Expert Testimony Of Edward E. Leamer, Ph.D with attached exhibits —as identified above  
 27 in Paragraphs 5 and 6—is confidential and highly sensitive commercial information, from which  
 28 Google derives economic benefit by maintaining its confidentiality or sensitive personally

1 identifying information. Dkts. 201, 221 and 261. Google does not disclose this information to  
2 its competitors, customers or the general public. *Id.* Public disclosure of this information would  
3 likely result in competitive harm to Google by giving third parties, including its competitors in  
4 the labor market, direct insight into confidential and sensitive aspects of Google's internal  
5 decision-making processes and business strategy related to employee hiring and recruiting. *Id.*

6  
7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed on February 27, 2014 in Palo Alto, California. /s/ Eric B. Evans

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